

(2) *Income tax required to be withheld from wages.* If an employer collects less than the correct amount of income tax required to be withheld from wages during a calendar year, the employer must collect the amount of the undercollection on or before the last day of the year by deducting the amount from remuneration of the employee, if any, paid after the employer ascertains the error. Such deductions may be made even though the remuneration, for any reason, does not constitute wages. The correct amount of income tax must be reported and paid, as provided in paragraph (c) of this section, whether or not the undercollection is corrected by a deduction made as prescribed in this paragraph (d)(2), and even if the deduction is made after the return on which the tax must be reported is due. If such a deduction is not made, the obligation of the employee to the employer with respect to the undercollection is a matter for settlement between the employee and the employer within the calendar year. If an employer makes an erroneous collection of income tax from two or more of its employees, a separate settlement must be made with respect to each employee. An overcollection of income tax from one employee may not be used to offset an undercollection of such tax from another employee. For provisions relating to the employer's liability for the tax, whether or not it collects the tax from the employee, see § 31.3403-1. For provisions relating to the employer's liability for an underpayment of tax unless the employer can show that the income tax against which the tax under section 3402 may be credited has been paid, see § 31.3402(d)-1. This paragraph (d)(2) does not apply if section 3509 applies to determine the employer's liability.

[T.D. 9405, 73 FR 37376, July 1, 2008]

**§ 31.6205-2 Adjustments of underpayments of hospital insurance taxes that accrue after March 31, 1986, and before January 1, 1987, with respect to wages of State and local government employees.**

(a) *Adjustments without interest.* A State or local government employer who makes, or has made, an undercollection or underpayment of the hos-

pital insurance taxes imposed by sections 3101(b) and 3111(b) that—

(1) Are required to be paid by reason of section 3121(u)(2), and

(2) Are required to be reported on returns due July 31, 1986, October 31, 1986, or February 2, 1987.

may make an adjustment without interest with respect to such taxes provided that all such taxes for the time period specified in paragraph (a)(2) (except for amounts that are subsequently paid pursuant to an interest-free adjustment under § 31.6205-1) are paid on or before February 2, 1987.

(b) *Example.* The application of the provisions of this section are illustrated by the following example:

*Example.* A State or local government employer should have withheld and paid \$100 dollars in hospital insurance taxes for the quarter beginning April 1, 1986, and ending June 30, 1986. The due date for the return and payment for that period is July 31, 1986. If the employer made the payment by February 2, 1987, then, under section 6601, interest is not assessable with respect to the underpayment of the hospital insurance taxes. If the employer did not make the payment by February 2, 1987, the interest is assessable for the period from July 31, 1986, until the time of payment.

[T.D. 8156, 52 FR 33582, Sept. 4, 1987]

**§ 31.6302-0 Table of Contents.**

This section lists the captions that appear in §§ 31.6302-1 through 31.6302-3.

*§ 31.6302-1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.*

- (a) Introduction.
- (b) Determination of status.
  - (1) In general.
  - (2) Monthly depositor.
    - (i) In General.
    - (ii) Special rule.
  - (3) Semi-weekly depositor.
  - (4) Lookback period.
    - (i)-(ii) [Reserved]
  - (c) Deposit rules.
    - (1) Monthly rule.
    - (2) Semi-Weekly rule.
      - (i) In general.
      - (ii) Semi-weekly period spanning two return periods.
      - (iii) Special rule for computing days.
    - (3) Exception—One Day rule.
    - (4) Deposits required only on business days.
    - (5)-(6) [Reserved]

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(7) Exception to the monthly and semi-weekly deposit rules for employers making interest-free adjustments.

(d) Examples.

*Example 6* [Reserved]

(e) Employment taxes defined.

(f) Safe harbor/De Minimis rules.

(1) Single deposit safe harbor.

(2) Shortfall defined.

(3) Shortfall make-up date.

(i) Monthly rule.

(ii) Semi-Weekly and One-Day rule.

(4) De minimis rule.

(i) [Reserved] For further guidance, see § 31.6302-0T, the entry for § 31.6302-1T(f)(4)(i).

(ii)-(iii) [Reserved]

(5) Examples.

*Example 3.* [Reserved]

(g) Agricultural employers—Special rules.

(1) [Reserved] For further guidance, see § 31.6302-0T, the entry for § 31.6302-1T(g)(1).

(2) Monthly depositor.

(3) Semi-weekly depositor.

(4) Lookback period.

(i) In general.

(ii) Adjustments and Claims for Refund.

(5) Example.

(h) Time and manner of deposit—deposits required to be made by electronic funds transfer.

(1) In general.

(2) Applicability of requirement.

(i) Deposits for return periods beginning before January 1, 2000.

(ii) Deposits for return periods beginning after December 31, 1999, and made before January 1, 2011.

(iii) Deposits made after December 31, 2010.

(iv) Voluntary deposits.

(3) Taxes required to be deposited by electronic funds transfer.

(4) Definitions.

(i) Electronic funds transfer.

(ii) Taxpayer.

(5) Exemptions.

(6) Separation of deposits.

(7) Payment of balance due.

(8) Time deemed deposited.

(9) Time deemed paid.

(i) Time and manner of deposit.

(1) General rules.

(2) Payment of balance due.

(3) Time deemed paid.

(4) Procurement of FTD coupons.

(5) Time deemed deposited.

(6) Time deemed paid.

(j) Voluntary payments by electronic funds transfer.

(k) Special rules.

(1) Notice exception.

(2) Wages paid in nonconvertible foreign currency.

(l) [Reserved]

(m) Cross references.

(1) Failure to deposit penalty.

(2) Saturday, Sunday, or legal holiday.

(n) [Reserved] For further guidance, see § 31.6302-0T, the entry for § 31.6302-1T(n).

(o) Effective/Applicability date.

*§ 31.6302-1T Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992 (temporary).*

(a) through (b)(4)(ii) [Reserved]

(b)(4)(i) In general.

(ii) Adjustments.

(c)(1) through (c)(4) [Reserved]

(c)(5) Exception to the monthly and semi-weekly deposit rules for employers in the Employers' Annual Federal Tax Program (Form 944).

(c)(6) Extension of time to deposit rule for employers in the Employers' Annual Federal Tax Program (Form 944) during the preceding year.

(d) *Examples 1 through 5* [Reserved]

*Example 6.* Extension of time to deposit rule for employers in the Employers' Annual Federal Tax Program (Form 944) during the preceding year satisfied.

(e) through (f)(4)(ii) [Reserved]

(f)(4)(iii) De minimis deposit rule for employers currently in the Employers' Annual Federal Tax Program (Form 944).

(f)(5) *Examples 1 and 2* [Reserved]

*Example 3.* De minimis deposit rule for employers currently in the Employers' Annual Federal Tax Program (Form 944) satisfied.

(g) through (n) [Reserved]

*§ 31.6302-2 Federal tax deposit rules for amounts withheld under the Railroad Retirement Tax Act (R.R.T.A.) attributable to payments made after December 31, 1992.*

(a) General rule.

(b) Separate application of deposit rules.

(c) Modification of Monthly rule determination.

(1) General rule.

(2) Exception.

(d) Effective/Applicability date.

*§ 31.6302-3 Federal tax deposit rules for amounts withheld under the backup withholding requirements of Section 3406 for payments made after December 31, 1992.*

(a) General Rule.

(b) Treatment of backup withholding amounts separately.

(c) Example.

*§ 31.6302-4 Deposit rules for withheld income taxes attributable to nonpayroll taxes.*

[T.D. 8436, 57 FR 44102, Sept. 24, 1992, as amended by T.D. 9239, 71 FR 14, Jan. 3, 2006; T.D. 9405, 73 FR 37379, July 1, 2008; T.D. 9440, 73 FR 79358, Dec. 29, 2008; T.D. 9507, 75 FR 75901, Dec. 7, 2010]